IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

WP(C).No. 14810 of 2006(K)

PETITIONER:

M/S. GRAND HOTEL,
M.G. ROAD, ERNAKULAM, REPRESENTED BY ITS PARTNER.

BY ADV. SRI.V.M.KURIAN

RESPONDENTS:

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1. THE KERALA STATE ELECTRICITY BOARD,
THIRUVANANTHAPURAM, REPRESENTED BY ITS CHAIRMAN.

2. THE ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL MAJOR SECTION COLLEGE, CLUB ROAD,
COCHIN-11.

BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C).NO.14810 of 2006-K

Dated this the 30th day of November, 2006

JUDGMENT

The petitioner is a consumer of electricity, under the respondents. It has applied for additional power allocation. Its application Ext.10 in that regard is pending without decision. Hence, this writ petition.

2. The respondents would submit that as per Ext.P7, an amount of Rs.30,14,193/- and also an amount of Rs.1,40,813.63 is payable by the petitioner, as penal interest. Unless the petitioner clears those amounts, the application for additional power allocation cannot be considered. But, the petitioner would point out that recovery pursuant to Ext.P7 stands stayed by Ext.P13 judgment for a period of six months from 11-7-2006. Further, the second demand concerning Rs.1,40,813.63 stands stayed by Ext.P12 judgment. Therefore, the demand of security for payment of those amounts cannot be insisted as the same will have the effect of ignoring or disobeying those judgments.

2. It is true that in view of the above-said two judgments the amounts could not be recovered by the K.S.E.B. But, once the

period of stay is over, the amount found due, subject to the orders that are passed, can be recovered by the K.S.E.B.

3. The writ petition is disposed of directing the competent authority of the first respondent to consider and pass orders on Ext.P10 application for additional power allocation, in accordance with law, without insisting for payment of the above-said amounts payable by the petitioner as expeditiously as possible and at any rate within two months from the date of production of a copy of this judgment. In other words, its application should not be rejected for the reason of non-payment of the amount mentioned above. But, once the period of stay is over, any amount found due under the orders passed, shall be paid by the petitioner, within one month from the date of those orders, subject, of course, of the right of the petitioner if it is aggrieved by it.

K.BALAKRISHNAN NAIR,JUDGE.

MS